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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
06/695,140	10/25/2000	Ritzya Takeue	Q61468	3189

7990 06/08/2004  
Sughrue Mion Zinn MacPeak & Seas PLLC  
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Washington, DC 20037-3213

EXAMINER

BUTTNER, DAVID J

ART UNIT PAPER NUMBER

1712

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Advisory Action

Application No.

09/095,140

Examiner

David Buttner

Applicant(s)

TAKESUE ET AL.

Art Unit

1712

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

## PERIOD FOR REPLY (check either a) or b))

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f)

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.138(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 28 May 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
 2. ☐ The proposed amendment(s) will not be entered because:  
 (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ they raise the issue of new matter (see Note below);  
 (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.  
 NOTE: \_\_\_\_\_  
 3. ☒ Applicant's reply has overcome the following rejection(s): Statz alone; Chen alone; Chen in view of Statz.  
 4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet  
 6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
 7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: 17

Claim(s) rejected: 12-16, 18 and 22-24

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
 9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_  
 10. ☐ Other: \_\_\_\_\_

DAVID J. BUTTNER  
PRIMARY EXAMINER

*David Buttner*

Continuation of 5, does NOT place the application in condition for allowance because the Statz in view of Sullivan rejection and Chen in view of Statz + Sullivan rejection remain. Arguments that Sullivan is limited to high shore D ionomers rather than the softer ionomers of Statz is unconvincing. Sullivan is relied on merely to disclose common metal compounds that will provide metal ions for neutralization of ionomers. Applicant's statement is factually incorrect also as Sullivan exemplifies (column 26 example 1) neutralization of "soft" acrylate ester containing ionomers with MgO.

Applicant's comparison data (C2, C6, C12) does not compare the closest prior art. These comparisons do not add any metal neutralization compounds. Statz does add metal neutralizing compound  $Mg(OH)_2$ . How can applicant's data prove anything regarding Statz?

Applicant's data actually shows the amount of neutralization is probably more critical rather than what is used to conduct neutralization or how neutralization is carried out (as long as fatty acid is present). Both Statz and Chen have the fatty acid present. Statz actually conducts high levels of neutralization. Applicant's claims do not require any particular neutralization level.